



ATTENTION

Probate cases on this calendar are currently under review by the probate examiners. Review of some probate cases may not be completed and therefore have not been posted.

If your probate case has not been posted please check back again later.

Thank you for your patience.

DOD: 05/05/09		PAT MIRANDA , Conservator, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 01/23/07 – 05/05/09	1. Need <i>Notice of Hearing</i> with proof of service by mail at least 15 days before the hearing on:
		Accounting - \$39,167.44	- Kelli McCaslin (daughter)
Cont. from		Beginning POH - \$46.35	- Carroll (Bud) McCaslin (son)
Aff.Sub.Wit.		Ending POH - \$1,440.97	- Michael McCaslin (son)
✓ Verified		Conservator - waived	2. Need copies of bank statements pursuant to Probate code § 2620(c)(2).
Inventory		Attorney - waived	3. Need original care facility billing statements pursuant to Probate Code § 2620(c)(5). Note: Several of the monthly care facility statements were filed in connection with Petitioner's first account on 08/17/12; however, several months during this accounting period are missing.
PTC		Petitioner prays for an Order:	4. Need Order.
Not.Cred.		1. Approving, allowing and settling the second account.	Note: A status hearing will be set as follows:
Notice of Hrg	x		- Friday, March, 29, 2013 at 9:00 am in Dept. 303 for filing of the Final Account.
Aff.Mail	x		Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
2620(c)	x		
Order	x		
Aff. Posting			Reviewed by: JF
Status Rpt			Reviewed on: 01/18/13
UCCJEA			Updates:
Citation			Recommendation:
FTB Notice			File 1 - McCaslin

3A **Thelma L Day (Trust)**
Atty Klassen, Kenton J. (of Dowling Aaron Incorporated, for Marilyn Yamanaka – Petitioner)
Atty Day, Montie S. (attorney for Nicole Day and Montie Day (pro per)
Atty Teixeira, J. Stanley (Court appointed attorney for Thelma Day)
Atty Roberts, Gregory J. (attorney for the Public Guardian)

Case No. 10CEPR00998

Ex Parte Application to Reset Trial Date

Age: 98	<p>MARILYN YAMANAKA, Former Successor Trustee and Cross-Respondent, is Petitioner and requests to have a trial date specially set in this case based on the following procedural and factual information:</p> <p>Petitioner states: The trial date was previously on calendar in August 2011. It has been sitting idle since Cross-Petitioner MONTIE DAY's ("Montie") failed motion for summary judgment. Petitioner requests the trial date be set in this Court as soon after 1-1-13 as possible and states the request is made in good faith and good cause and appropriate circumstances exist to allow the Court to specially set the trial date as requested.</p> <p>The parties were ready to proceed at the trial readiness hearing held 7-29-11; however, at that time, the parties agreed that Ms. Yamanaka would resign as successor trustee in favor of the PUBLIC GUARDIAN, the trial date of 8-2-11 was vacated, and Montie Day was permitted to file a motion for summary judgment. Montie insisted he be permitted to file this motion before the trial resumed. Judge Snauffer denied the summary judgment on 3-19-12. The motion was found to be defective on several grounds and Montie was found to have failed to meet his burden of proof.</p> <p>On 4-6-12, Counsel for Petitioner requested by letter a settlement demand from Montie. In response, Montie filed a baseless and malicious complaint with the state bar against Mr. Klassen, which was closed as having no merit. Petitioner states Montie behaved badly in filing such a letter. Irrespective of this, Ms. Yamanka's counsel has continued since that time to reasonably request a trial date and/or settlement demand from him. Montie has not proposed a settlement demand as he promised he would before Judge Oliver in March 2012 and has failed to offer any dates of availability for trial despite several requests.</p> <p>Petitioner states the sole offer with respect to trial has been Montie's request that the "trial" be limited to Court consideration of documents previously provided to the court in connection with his defective motion for summary judgment. Petitioner states the motion does not so much present facts as it offers the opinions of Montie on many subjects of his choosing, as well as his evident dislike of his brother Derrell, as well as negative statements made concerning Ms. Yamanaka.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Minute Order 1-8-13: Montie Day is appearing via conference call. The Court notes for the minute order that the parties have reserved their rights regarding the accounting and any objections thereto. Continued to 1/28/13</p> <p>Note: The First Account of the Public Guardian is Page 3B.</p>	
DOB: 6-14-14			
Cont. from 010813			
Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
Inventory			
PTC			
Not.Cred.			
<input checked="" type="checkbox"/> Notice of Hrg			
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Aff.Pub.			
Sp.Ntc.			
Pers.Serv.			
Conf. Screen			
Letters			
Duties/Supp			
Objections			
Video Receipt			
CI Report			
9202			
<input checked="" type="checkbox"/> Order			
Aff. Posting			
Status Rpt			
UCCJEA			
Citation			
FTB Notice			
SEE PAGE 2			

3A

Good cause: Petitioner states nothing has been done to bring this case to resolution since Montie's unsuccessful motion for summary judgment, filed over a year ago, and ruled against in March 2012. It appears he is seeking to become successor of his mother's trust by default or operation of law. Since trial should only last a few hours or a day or two, and because Montie has made no effort to move this matter to trial, Ms. Yamanaka has brought this motion. Petitioner has been ready to proceed since the last trial date was vacated and requests the earliest date available.

Petitioner strongly opposes any further delays by Montie as she does not wish to have her claims and defense of claims prejudiced by not being permitted to put on the stand elderly witnesses who are well past 80 years of age, not including Thelma Day, who Montie insists is incompetent, and who likely is at this stage.

Attorney Klassen's declarations state the sole real issue is whether or not Ms. Yamanaka was chosen by Ms. Thelma Day to be her successor trustee, and whether Ms. Day, if she made that choice, was competent to do so. Given the voluminous declarations submitted by Mr. Day in support of his unsuccessful and poorly drawn motion for summary judgment, it is clear he wants to make the trial into a circus where he can make negative comments about Ms. Yamanaka and his own brother in yet another effort to force Ms. Yamanaka to answer claims which have little to do with anything before this court. The key witness in this case is Certified Specialist William Coleman of Fresno, not Mr. Day.

Mr. Klassen states his client has been held hostage by Mr. Day since the decision against his motion and has shown no willingness to resolve this case short of trial. Mr. Klassen believes Mr. Day is attempting to cost Ms. Yamanaka needless money and worry. Discovery has been complete for approx. one year, as confirmed by Mr. Day. There are no obstacles to getting this case resolved at trial except Mr. Day's efforts to delay. Mr. Klassen's personal view is that Mr. Day intends to delay the trial until his mother's demise, at which time he assumes he will then have control of the trust, rather than the Public Guardian.

Mr. Klassen states that in response to his 4-6-12 letter requesting settlement demand, Mr. Day filed a baseless and malicious complaint with the state bar against Mr. Klassen, which was quickly closed as having no merit. Mr. Day confirmed that not only would he go to substantial lengths to bully Ms. Yamanaka, but that he would also attempt to do the same to Mr. Klassen.

Mr. Klassen states he gave notice to Montie Day and to J. Stanley Teixeira that he was going to file this ex parte application to re-set the trial date. Mr. Day indicated that he intended to respond. Mr. Teixeira did not give information of what he might do.

Ms. Yamanaka states that well before Mr. Day's unsuccessful motion for summary judgment, he told her he was going to do what he could to harm her financially by making her spend a lot of money on attorney fees. His goal is not to determine facts, but to harm her because he was not made the original successor trustee by his mother. He has caused her to incur all sorts of expenses including tens of thousands of dollars in attorney fees. Ms. Yamanaka has requested that her attorney do what is necessary to get this case resolved. Ms. Yamanaka believes she performed her duties as successor trustee capably and wants the opportunity to prove this in court while Ms. Say is still living.

A response filed 1-7-13 by Montie S. Day states: Trial will obviously require that any remaining assets of Thelma Day and the trust will be further depleted to Thelma Day's detriment. Notwithstanding, this Court will eventually have to deal with the issues presented. Mr. Day anticipates a 4-5 day trial and provides a list of numerous witnesses. Mr. Day states the trial could be expedited if the parties would stipulate that the declarations and records already filed could be utilized as evidence and considered testimony and subject to the granting of a motions in limine. The other procedure, on recommended by Montie S. Day and Nicole S. Day, is to present evidence to the Court as presented in the Motion for Summary Judgment, but with the **stipulation that the Court may weigh and decide the issues after weighing and considering the evidence included in the Summary Judgment motions and oppositions with each side permitted to only call additional witnesses as may be appropriate, subject to objections. This would promote judicial efficiency and permit an economical adjudication of the issues.**

DOD: 9-3-09		<p>TERESA GOODING, daughter, was appointed as Administrator of the Estate with Limited IAEA with cash to be placed in a blocked account on 2/2/11. Letters issued 2/3/11.</p> <p>A Corrected Final I&A was filed 12-7-12.</p> <p>First Account or Petition for Final Distribution is now due.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p><u>Continued from 2-2-12, 7-31-12, 10-29-12</u></p> <p>1. Need First Account or Petition for Final Distribution or status report regarding the assets of the estate.</p>	
Cont. from 020212, 073112, 102912				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input type="checkbox"/>	Verified			
<input checked="" type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input type="checkbox"/>	Notice of Hrg			
<input type="checkbox"/>	Aff.Mail			
<input type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input type="checkbox"/>	Letters			2/3/11
<input type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			X
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
<p>Reviewed by: NRN / skc</p> <p>Reviewed on: 1-18-13</p> <p>Updates:</p> <p>Recommendation:</p> <p>File 9 - Sanchez</p>				

Petition for Appointment of Guardian of the Person (Prob. C. 1510)

Age: 4		TEMPORARY EXPIRES 1-28-13	NEEDS/PROBLEMS/COMMENTS:
DOB: 9-29-08			
		MONICA L. MEJIA, Maternal Grandmother, is Petitioner.	<u>Continued from 10-22-12.</u>
Cont. from 102212		Father: ERNEST FERNANDEZ - Consents and waives notice	Minute Order 10-22-12 [Judge Snauffer]: With respect to Indian ancestry, the Petitioner informs the Court that she was adopted, but her biological mother was full Cherokee. Matter continued to 1/28/13. The temporary is extended to 1/28/13. The Court directs the Petitioner to speak with the examiner following today's hearing. Continued to 1/28/13. Temporary extended to 1/28/13.
Aff.Sub.Wit.			
✓ Verified		Mother: PRISCILLA MEJIA - Consents and waives notice	As of 1-18-13, nothing further has been filed. The following issues remain:
Inventory			
PTC		Paternal Grandfather: Not listed Paternal Grandmother: Not listed Maternal Grandfather: Not listed	1. Need Notice of Hearing.
Not.Cred.			
Notice of Hrg	X	Petitioner states the father is in jail for injury to a minor which is his own child and mother is absent and needs to get her life together she says.	2. Need proof of service of Notice of Hearing with a copy of the Petition at least 15 days prior to the hearing per Probate Code §1511 or consent and waiver of notice or declaration of due diligence on: - Paternal Grandfather (not listed) - Paternal Grandmother (not listed) - Maternal Grandfather (not listed)
Aff.Mail	X		
Aff.Pub.		Court Investigator Jennifer Young filed a report and clearances on 10-17-12. The report recommends the Petition be GRANTED as Petitioner is providing a safe and stable environment for Jeremiah.	Examiner notes that the father may be able to provide information about the paternal grandparents for notice purposes.
Sp.Ntc.			
Pers.Serv.		However, the CI Report notes that there is Indian (Cherokee) heritage on the maternal side of the family – Petitioner's mother (the minor's great-grandmother); however, because Petitioner was adopted, her case would have to be reopened.	SEE PAGE 2
✓ Conf. Screen			
✓ Letters		Reviewed by: skc	Reviewed on: 1-18-13
✓ Duties/Supp			
Objections		Updates:	Recommendation:
Video Receipt			
✓ CI Report		File 15 – Fernandez	
✓ Clearances			
✓ Order			
Aff. Posting			
Status Rpt			
✓ UCCJEA			
Citation			
FTB Notice			

The following issue was previously noted. The Court may require status of this information:

3. The Investigation Report indicates there is Indian (Cherokee) ancestry in the maternal family, but that because the Petitioner was adopted, the records are closed.

The Court may require further information and notice to appropriate parties/agencies pursuant to the Indian Child Welfare Act. Note that the information that is needed is information regarding the child's relatives, and opening old adoption records may not be necessary for this guardianship. Please fill out as much information as you can on the ICWA-030 and return it to the Probate Clerk's Office as soon as possible.

Need ICWA-030 Notice of Child Custody Proceeding for Indian Child filled out and returned to the Probate Clerk's Office. The ICWA-030 must be served prior to hearing with copies of petition and all attachments on on the child's parent; any Indian custodian; any Indian tribe that may have a connection to the child; the Bureau of Indian Affairs (BIA), and possibly the U.S. Secretary of the Interior, by certified or registered U.S. Mail, return receipt requested. (Please see Probate Code 1460.2, and CA Rules of Court 7.1015.)

The Probate Clerk will then mail the notice to the required agencies as required. After mailing, per item 2 above, need proof of service of notice, including copies of the notices sent and all return receipts and responses received, pursuant to Probate Code 1460.2(d).

The Court Investigator previously provided the form, but a blank copy was also provided to the petitioner at the hearing, and is available at the Probate Clerks Office if necessary.

Update: It does not appear that anything further was provided to the Court since the last hearing. Continuance may be required for completion of these documents by the Petitioner, service by the Court, and time for response from the agencies.